

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
KHUSAR MOBLEY,  
  
Defendant.

Case No.: 12-CR-0235 YGR

ORDER DENYING DEFENDANT'S MOTIONS  
FOR (1) JUDGMENT OF ACQUITTAL  
NOTWITHSTANDING THE VERDICT OR, IN THE  
ALTERNATIVE, (2) NEW TRIAL


On September 4, 2013, Defendant Khusar Mobley moved under Federal Rule of Criminal Procedure 29 for a Judgment of Acquittal Notwithstanding the Verdict or, in the alternative, under Rule 33 for a new trial. (Dkt. No. 174.) The government opposed the motion (Dkt. No. 175), and Defendant replied (Dkt. No. 176). On October 23, 2013, the Court took oral argument which concluded in an oral ruling **DENYING** Defendant's motion.

"A motion for new trial should be granted only in exceptional cases in which the evidence preponderates heavily against the verdict." *United States v. Rush*, 749 F.2d 1369, 1371 (9th Cir. 1984); *see also United States v. Pimentel*, 654 F.2d 538, 545 (9th Cir. 1981). Such an exceptional case would be if the court concludes that a "serious miscarriage of justice may have occurred." *See, e.g., United States v. Kellington*, 217 F.3d 1084, 1097 (9th Cir. 2000). For the reasons set forth on the record at the hearing, this is not such an exceptional case.

This Order terminates Docket No. 174.

**IT IS SO ORDERED.**

Date: October 23, 2013

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE